

JUN 20 2006



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FAX TRANSMISSION June 20, 2006

TO:	Mail Stop: AF Examiner: P. Agustin Commissioner for Patents PO Box 1450 Alexandria, VA 22313-1450	FROM: Douglas P. Mueller
		OUR REF: 10873.0887USWO
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Title of Document:

**AMENDMENT AND RESPONSE
NOTICE OF IMPROPER REQUEST FOR CONTINUED EXAMINATION (RCE)
PETITION FOR EXTENSION OF TIME**

Applicant: NAKANISHI et al
Serial No.: 10/070,288
App. Filed: February 28, 2002
Group Art No.: 2652

Please charge Deposit Account No. 50-3478 in the amount of \$350 for the 2nd month extension of time. Please charge any additional fees or credit overpayment to Deposit Account No. 50-3478. Please consider this a PETITION FOR EXTENSION OF TIME for a sufficient number of months to enter these papers, if appropriate.

By: _____
Name: Douglas P. Mueller
Reg. No: 30,300

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Date

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/070,288	02/28/2002	Naoki Nakanishi	10873.887USWO	4606
52835	7590	05/22/2006		EXAMINER
HAMRE, SCHUMANN, MUELLER & LARSON, P.C. P.O. BOX 2902-0902 MINNEAPOLIS, MN 55402			ART UNIT	PAPER NUMBER

DATE MAILED: 05/22/2006

ER25 6/20/06
 FRSrat 7/20/06

Please find below and/or attached an Office communication concerning this application or proceeding.





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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10070288			

DATE MAILED:

NOTICE OF IMPROPER REQUEST FOR CONTINUED EXAMINATION (RCE)

The request for continued examination (RCE) under 37 CFR 1.114 filed on 5/15/06 is improper for reason(s) indicated below:

- 1. Continued examination under 37 CFR 1.114 does not apply to an application for a design patent. Applicant may wish to consider filing a continuing application under 37 CFR 1.53(b) or a CPA under 37 CFR 1.53(d). An RCE cannot be treated as a CPA.
- 2. Continued examination under 37 CFR 1.114 does not apply to an application that was filed before June 8, 1995. Applicant may wish to consider filing a continuing application under 37 CFR 1.53(b).
- 3. Continued examination under 37 CFR 1.114 does not apply to an application unless prosecution in the application is closed. If the RCE was accompanied by a reply to a non-final Office action, the reply will be entered and considered under 37 CFR 1.111. If the RCE was not accompanied by a reply, the time period set forth in the last Office action continues to run from the mailing date of that action.
- 4. The request was not filed before payment of the issue fee, and no petition under 37 CFR 1.313 was granted. If this application has not yet issued as a patent, applicant may wish to consider filing either a petition under 37 CFR 1.313 to withdraw this application from issue, or a continuing application under 37 CFR 1.53(b).
- 5. The request was not filed before abandonment of the application. The application was abandoned, or proceedings terminated on _____. Applicant may wish to consider filing a petition under 37 CFR 1.137 to revive this abandoned application.
- 6. The request was not accompanied by the fee set forth in 37 CFR 1.17(e) as required by 37 CFR 1.114. Since the application is not under appeal, the time period set forth in the final Office action or notice of allowance continues to run from the mailing date of that action or notice.
- 7. The request was not accompanied by a submission as required by 37 CFR 1.114. Since the application is not under appeal, the time period set forth in the final Office action or notice of allowance continues to run from the mailing date of that action or notice.

Note: A continued prosecution application (CPA) under 37 CFR 1.53(d) cannot be filed in a utility or plant application. A CPA filed in a utility or plant application that has a filing date on or after June 8, 1995 will be treated as an RCE under 37 CFR 1.114. The request for a CPA in the instant application, however, has been treated as an improper RCE for the reason(s) indicated above.

A copy of this notice MUST be returned with any reply.

Direct the reply and any questions concerning this notice to:

Marcia L. Gordon, Technology Center 2600
 (703) 305-7122-3003

FORM PTO-2051 (Rev. 7/2003)